

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

MARIA EULALIA DIAZ ROCA

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -3461

Decision No. CU 4917

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by MARIA EULALIA DIAZ ROCA for \$16,420.00 based upon the asserted ownership and loss of certain real and personal property in Cuba. Claimant has been a national of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated,

intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimant describes her loss as follows:

Land in Habana	\$ 7,540.00
Residence on this land	6,100.00
Household furnishings and other personalty	<u>2,780.00</u>
	\$16,420.00

Based upon the entire record, including a report from abroad, an affidavit from claimant and the seller of the realty, and an affidavit from an individual who knew and visited claimant in Cuba, and considering the community property laws of Cuba the Commission finds that claimant owned a half interest in the real and personal property subject of this claim.

On December 6, 1961, the Cuban Government published its Law 989 which effected confiscation of all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country. Claimant states that the claim arose on December 29, 1966 because she left the country.

The Commission finds, in the absence of evidence to the contrary, that the subject real and personal property was taken by the Government of Cuba on December 29, 1966 pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

The record includes, in support of the claimed values, the aforementioned affidavits and report from abroad which gives the area of the lot as above 5,537 square varas. Claimant states that after the land was purchased about April 1962 the house consisting of about eight rooms was built, fruit trees planted and the property was fenced.

On the basis of the evidence of record, and evidence available to the Commission regarding the value of similar properties in Havana the Commission finds that on December 29, 1966, the date of loss, the house and lot had a value of \$10,285.00 and that the personalty after appropriate depreciation had a total value of \$2,230.00.

The Commission therefore concludes that claimant suffered a loss in the amount of \$6,257.50 within the meaning of Title V of the Act as a result of the taking of her one-half interest in the property by the Government of Cuba on December 29, 1966.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

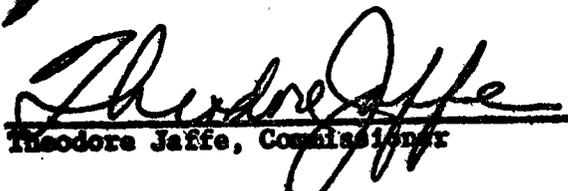
CERTIFICATION OF LOSS

The Commission certifies that MARIA EULALIA DIAZ ROCA suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Six Thousand Two Hundred Fifty-Seven Dollars and Fifty Cents (\$6,257.50) with interest at 6% per annum from December 29, 1966 to the date of settlement.

Dated at Washington, D. C.,  
and entered as the Proposed  
Decision of the Commission

JUN 3 1970

  
Lyda S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

  
Sidney Freidberg, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)